

**REMARKS**

Entry of the foregoing amendment, and further favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested.

As correctly indicated in the Office Action Summary, claims 1-10, and 29-31 were pending in the application and under consideration; claims 9, 10, 30, and 31 stand rejected. Applicants note with appreciation that the Examiner has indicated that claims 1-8, and 29 are allowable.

By way of the present amendment, claims 9, 10 and 30 have been canceled without prejudice or disclaimer to the subject matter disclosed therein. Claim 31 has been amended to delete the recitation of hybridization language.

No new matter is added by way of the present amendment. Subject matter that may have been canceled by the present amendment is canceled without prejudice or disclaimer. The right to file a continuation or divisional application directed to any canceled subject matter is reserved.

**Claim rejections under 35 U.S.C. § 102(b):**

Claim 9 stands rejected under 35 U.S.C. § 102 as allegedly anticipated by Korn et al. (GenBank Accession No. A98448, September 27, 1997). By the present amendment, claim 9 has been canceled. Therefore, the rejection is moot.

Claim 10 stands rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Ziegelin et al. (GenBank Accession No. AJ011592, October 1, 1998). By the present amendment, claim 10 has been canceled. Therefore, the rejection is moot.

**Claim rejections under 35 USC § 112, first paragraph (written description):**

Claims 10, 30, and 31 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter that was not described in the specification in such a manner as to reasonably convey to one skilled in the art that Applicant had possession of the claimed invention at the time the application was filed. By the present amendment, claims 10 and 30 have been canceled. Therefore, the rejection with respect to claims 10 and 30 is moot.

With respect to claim 31, the Office alleged that one skilled in the art would not recognize that Applicant was in possession of the genus of DNA's capable of hybridizing to SEQ ID NO: 4084 under stringent conditions. By the present amendment, claim 31 is amended to delete recitation of the hybridization language. The genus of nucleic acid sequences encoding a *Bacterioides fragilis* polypeptide of at least 20 consecutive amino acids of SEQ ID NO: 9306 is fully described by the disclosure in the Specification of SEQ ID NO: 9306 taken together with the well known genetic code. Thus, the present rejection cannot possibly be applied to claim 31 as amended. Accordingly, withdrawal of the rejection is respectfully requested.

Furthermore, Applicant notes that claim 31 is clearly free of the prior art, because the closest prior art of record, Ziegelin et al. (GenBank Accession No. AJ011592, October 1, 1998), is alleged to encode only 14 sequential amino acids of SEQ ID NO: 9306.

### CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

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Date: October 26, 2004

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